

## **SUBCHAPTER 6. REMEDIATION PROCEDURES**

### **7:26B-6.1 Preliminary assessment, site investigation and remedial investigation**

(a) Unless otherwise established pursuant to N.J.A.C. 7:26B-6.5, the owner or operator shall complete the remediation required by ISRA and this chapter and submit the reports certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5, within the time schedules listed in (b) through (e) below, N.J.A.C. 7:26B-6.2 and 6.3.

(b) The owner or operator shall complete the preliminary assessment report in accordance with N.J.A.C. 7:26E-3.2 and submit a negative declaration, if applicable, within 35 calendar days after the date the submission of written notice is required pursuant to N.J.A.C. 7:26B-3.2(a).

(c) The owner or operator shall complete a site investigation report, if applicable, in accordance with N.J.A.C. 7:26E-3.13 and submit a negative declaration, if applicable, within 120 calendar days after the date the submission of written notice is required pursuant to N.J.A.C. 7:26B-3.2(a).

(d) The owner or operator shall complete a remedial investigation workplan, if applicable, in accordance with N.J.A.C. 7:26E-4.2 within 180 calendar days after the date the submission of written notice is required pursuant to N.J.A.C. 7:26B- 3.2(a).

(e) The owner or operator shall complete the remedial investigation report in accordance with N.J.A.C. 7:26E-4.8 and submit a negative declaration, if applicable, within 300 calendar days after the date the submission of written notice is required pursuant to N.J.A.C. 7:26B-3.2(a) or within 120 calendar days after the receipt of the Department's written approval of the remedial investigation workplan, whichever occurs last.

## **7:26B-6.2 Soil remedial action and remedial action workplan**

(a) The owner or operator required to conduct a soil remedial action at the industrial establishment or at any area of concern shall not implement a remedial action prior to the Department's approval of a remedial action workplan for the site unless the soil remedial action satisfies the criteria established in (b) below.

(b) The owner or operator may implement a soil remedial action at an industrial establishment without prior Department approval of a remedial action workplan if the following criteria are satisfied:

1. The soil remedial action is reasonably expected to be completed, in compliance with N.J.A.C. 7:26E, within the time schedules established by the Department. Such remedial action shall not exceed the five years from the commencement of the implementation of the remedial action; and

2. The owner or operator is implementing a soil remedial action which achieves the established minimum unrestricted or restricted use soil remediation standards without the use of engineering controls, as applicable.

(c) The owner or operator planning to implement a soil remedial action in accordance with (b) above shall notify the Department, in writing, at the address provided at N.J.A.C. 7:26B-1.5, within 420 calendar days after the date the submission of written notice is required pursuant to N.J.A.C. 7:26B-3.2(a) that includes the following information:

1. A certification that based on the remediation completed, there are no areas of concern at the industrial establishment or at any location where hazardous substances or hazardous wastes have migrated or are migrating from the industrial establishment involving the remediation of groundwater or surface water; and

2. A detailed schedule of implementation for the remedial action which includes a summary of the remediation performed to date, the status of the remediation of each area of concern, the proposed remedial actions to be conducted at each area of concern and the time schedules for the completion of proposed activities. This information may include both narrative and/or graphic descriptions and shall only be used for the purposes of establishing a time schedule pursuant to this subsection.

(d) The notification required by (c) above shall be certified in accordance with N.J.A.C. 7:26B-1.6.

(e) The notification required by (c) above shall satisfy the requirement of N.J.A.C. 7:26E-1.4 to notify the Department. The owner or operator shall notify any other person as required pursuant to N.J.A.C. 7:26E-1.4.

(f) The Department may require an owner or operator planning to implement a soil remedial action in accordance with (b) above to submit progress reports on a quarterly, semi-annual or annual basis. The owner or operator is not required to submit the progress reports unless the Department requests the submission of the reports in writing.

(g) The owner or operator required to conduct a soil remedial action that does not satisfy the criteria established in (b) above shall submit a remedial action workplan to the Department for review and approval within 420 calendar days after the date the submission of written notice is required pursuant to N.J.A.C. 7:26B- 3.2(a) or within 120 calendar days after receipt of the Department's written approval of the remedial investigation report submitted pursuant to N.J.A.C. 7:26B- 6.1(d), whichever occurs last.

### **7:26B-6.3 Groundwater or surface water remedial action workplan**

The owner or operator shall submit the remedial action workplan for any remedial action involving the remediation of groundwater or surface water for review and approval by the Department within 420 calendar days after the date the submission of written notice is required

pursuant to N.J.A.C. 7:26B-3.2(a) or within 120 calendar days after receipt of the Department's written approval of the remedial investigation report submitted pursuant to N.J.A.C. 7:26B-6.1(d), whichever occurs last.

#### **7:26B-6.4 Remediation funding source requirement**

The owner or operator shall submit a remediation funding source in accordance with N.J.A.C. 7:26C-7 upon the Department's approval of a remedial action workplan for the industrial establishment.

#### **7:26B-6.5 Compliance with remediation schedules**

(a) The owner or operator required to remediate an industrial establishment or any area of concern shall comply with:

1. The schedules established at N.J.A.C. 7:26B-6.1, 6.2 and 6.3;
2. The alternative schedule of implementation submitted with the General Information Notice as provided at N.J.A.C. 7:26B-3.3(a)10; or
3. The schedule established in a remediation agreement in accordance with N.J.A.C. 7:26B-4.

(b) The owner or operator required to remediate an industrial establishment or any area of concern shall provide written notice to the Department at the address provided at N.J.A.C. 7:26B-1.5, at least 15 calendar days prior to the date of expected noncompliance upon the owner's or operator's finding that the remediation of the industrial establishment will not conform to the schedules established at (a) above. The notification shall include the following information:

1. A summary of remediation completed to date and the status of each area of concern;

2. The proposed remediation pursuant to N.J.A.C. 7:26E, to be conducted at each area of concern and the revised schedule of for the completion of proposed remediation; and

3. Any additional information which is relevant to the Department's evaluation of the proposed remediation schedule.

#### **7:26B-6.6 Completion of remediation**

Upon completion of the remediation, the owner or operator shall submit to the Department the workplans for and reports of the preliminary assessment, site investigation, remedial investigation and remedial action, as applicable, and any additional information required by the Department that has not been previously submitted to the Department for review and approval.

#### **7:26B-6.7 Submission and review of a negative declaration**

(a) Unless otherwise provided by this chapter, the owner or operator, subsequent to closing operations, or the public release of its decision to close operations, or prior to transferring ownership or operations of the industrial establishment, shall submit a negative declaration, executed and certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5. The Department shall approve a negative declaration by the issuing a no further action letter.

(b) The owner or operator shall submit a negative declaration pursuant to (c) below upon the occurrence of any of the following events:

1. The submission of a preliminary assessment report, site investigation report, remedial investigation report or remedial action report, as applicable, which demonstrates the following:

i. There are no discharged hazardous substances or hazardous wastes at the industrial establishment; or

ii. Any discharged hazardous substances or hazardous wastes at the industrial establishment above the applicable remediation standards have been remediated in accordance with N.J.A.C. 7:26E, and any applicable remediation standards and the remediation has been approved by the Department; and any discharged hazardous substances or hazardous wastes that have migrated or are migrating from the industrial establishment above the applicable remediation standards have been remediated in compliance with N.J.A.C. 7:26E, and any applicable remediation standards and the remediation has been approved by the Department;

2. The receipt by the owner or operator of notification from the Department that based on the Department's review of the information submitted, the owner or operator shall submit a negative declaration; or

3. The owner or operator is required pursuant to N.J.A.C. 7:26B-5 to submit a negative declaration.

(c) The owner or operator required to submit a negative declaration pursuant to this chapter shall submit the negative declaration on forms available from the Department at the address provided at N.J.A.C. 7:26B-1.5. The owner or operator shall include the following information in the negative declaration:

1. Identification of the subject industrial establishment including:

i. The name and location of the industrial establishment, including street address, city or town, municipality, county, zip code and telephone number;

ii. The tax block and lot numbers of the industrial establishment;

iii. The applicable NAICS number of the subject industrial establishment;

iv. The current real property owner, including name, address, and telephone number; and

v. The current business operator and/or business owner, if different from (c)1i above, of the industrial establishment including name, address and telephone number;

2. The preliminary assessment report, site investigation report, remedial investigation workplan, remedial investigation report, remedial action workplan, as applicable, and any other information required by the Department if not previously submitted, to review the proposed negative declaration; and

3. A certification by the owner or operator that there has been no discharge of hazardous substances or hazardous wastes on the industrial establishment, or that any such discharge on the industrial establishment or discharge that has migrated or is migrating from the industrial establishment has been remediated in accordance with procedures approved by the Department and in accordance with any applicable remediation standards

(d) The owner or operator shall certify the negative declaration in accordance with the provisions at N.J.A.C. 7:26B-1.6.

(e) The owner or operator shall pay all applicable fees required pursuant to N.J.A.C. 7:26B-8.

(f) The Department shall review a negative declaration within 45 calendar days after the completion of the Department's review of all the information submitted pursuant to this chapter and shall:

1. Approve the remediation for that industrial establishment by the issuance of a no further action letter pursuant to N.J.A.C. 7:26B-1.8(a); or

2. Inform the owner or operator that additional remediation at the industrial establishment or at an offsite location is required.